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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,973	04/15/2004	Timothy Nepht Tillotson	10030535-1	7513

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AGILIENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER

NGUYEN, VAN H

ART UNIT	PAPER NUMBER
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2194

MAIL DATE	DELIVERY MODE
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10/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/824,973

Applicant(s)

TILLOTSON ET AL.

Examiner

VAN H. NGUYEN

Art Unit

2194

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 7, 12 and 14 is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-11 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 6, 13, 19, and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is responsive to the amendment filed 06/02/2008.

Claims 1-20 are pending in this application.

Claim Objections

2. Claims 15, 18, and 19 are objected to because of the following informalities:
 - Claim 15 does not appear to comport to 37 CFR § 1.75 (Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation)
 - Claims 18 and 19: “the generator” should “the generator module”

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4, 8-11, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fuller, III et al.** (US 7134081 B2) in view of **Werme et al.** (US 7171654 B2).

As to claim 1:

Fuller teaches a method for obtaining a client program grammar communication from an Application Programming Interface call to an instrument, comprising: obtaining the API call; when metadata is associated with the API call, obtaining the associated metadata
(see the instrument and API call discussion: col.4, lines 49-65; col.7, line 47-col.9, line 67; col.13, line 65-col.14, line 62; col.20, lines 17-36; and col.24, lines 53-60).

Fuller, however, does not specifically teach the automatically determine a best estimation as claimed.

Werme teaches the claimed automatically determine a best estimation (*see the instrumentation APIs and API calls discussion: col.11, line 64-col.14, line 54*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Fuller with Werme because it would have provided an application programming interface permitting the functional elements to access the specification information using API calls.

As to claim 2:

Fuller teaches the API call is a .NET API call (*see col.24, lines 53-60*).

As to claim 3:

Fuller teaches the client program grammar communication is a Standard Commands for Programmable Instrumentation communication (*see col.20, lines 17-36*).

As to claim 4:

Werme teaches evaluating the obtained best estimation of the SCPI communication for conformance of the best estimation of the SCPI communication to SCPI specifications (*see the instrumentation APIs and API calls discussion: col.11, line 64-col.14, line 54*).

As to claims 8-11:

Note the rejection of claims 1-4 above. Claims 8-11 are the same as claims 1-4, except claims 8-11 are computer readable memory device claims and claims 1-4 are method claims.

As to claims 15-18:

Note the rejection of claims 1-4, respectively. Claims 15-18 are the same as claims 1-4, except claims 15-18 are system claims and claims 1-4 are method claims.

Indication of Allowable Subject Matter

4. Claims 5, 7, 12, and 14 appear to be allowable over the prior art of record, subject to a final search.

Claims 6, 13, 19, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims subject to the objections detailed above, and subject to a final search.

Response to Arguments

5. Applicant's arguments filed 06/02/2008 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record, listed on PTO 892 provided to Applicant is considered to have relevancy to the claimed invention. Applicant should review each identified reference carefully before responding to this office action to properly advance the case in light of the prior art.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM - 6:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MENG-AI AN can be reached at (571) 272-3756.

The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see [http://pair direct.uspto.gov](http://pair.direct.uspto.gov). Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/

Primary Examiner, Art Unit 2194